

Serial No.: 10/520,936
Atty. Docket No.: P70330US0

REMARKS

The Office Action mailed June 23, 2008, has been carefully reviewed and Applicants note with appreciation the identification of allowed subject matter.

By this Amendment, Applicants have canceled claims 14 and 18-20, amended claims 3, 6, 13, 15-17, 23-26 and 28, and added new claims 29-31. Claims 3, 6-13, 15-17 and 23-31 are pending in the application. Claims 3, 6, 7, 13, 23-25 and 29 are independent.

The Examiner rejected claims 3, 6, 13, 23, 24, 26 and 27 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application No. US 2003/0073974 to Falconer. Under 35 U.S.C. 103(a), the Examiner rejected claims 25 and 28 as being unpatentable over Falconer in view of U.S. Patent No. 4,367,740 ~~to~~ to Evanoski, III ("Evanoski"). The Examiner objected to claims 14-20 as being dependent on a rejected base claim but stated that claims 14-20 would be allowable if amended to include the limitations of the base claim and any intervening claims. Claims 7-12 are allowed.

As set forth herein, the claimed invention is directed to an irrigation system having a reservoir for irrigating liquid, a probe for arrangement in a user, a conduit for conducting the irrigating liquid from the reservoir to the probe, a fixation member including an inflatable cuff for fixation of the probe in

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the user, a pump for pumping gas into the reservoir to transfer the irrigating liquid from the reservoir to the probe, and a control unit which may be set in at least a cuff inflating position and a liquid transferring position.

In the particularly compact design of the irrigation system as set forth in claim 3, the conduit includes a first part connecting the control unit with the probe and a second part connecting the reservoir with the control unit, each of the first and second parts including a gas conducting tube and an irrigating liquid conducting tube. In addition, *the pump is directly connected to or integral with the control unit.* This is not disclosed by Falconer.

Falconer teaches a bowel irrigation probe including a flexible tube 6 with a *single* liquid supply duct passing therethrough for supplying irrigation liquid from a reservoir 1 connected to a proximal end of the tube to the outlet 13 of a probe 7 on the distal end. A manually compressible member or pump, in the form of a bulb 5, is coupled to the reservoir via a second tube 4 such that, when the bulb is compressed, air is forced through the tube 4 to push liquid out of the reservoir, into the tube 6 and out the probe outlet 13. A tap or clamp 15 is provided on the mid-section of the tube 6 that has a clamped or closed position, in

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which fluid is prevented from flowing through the tube 6, and an unclamped or open position that allows fluid flow.

The Examiner has interpreted the clamp 15 of Falconer as constituting the "control unit" set forth in claim 3. As such, the clamp is clearly *not* directly connected to or integral with the pump. On the contrary, the clamp is separated from the pump by the reservoir and is further positioned on a tube that is completely separate from the tube that connects the pump to the reservoir.

In addition, Applicants do not agree with the Examiner's finding that the conduit for conducting the irrigating liquid from the reservoir to the probe in Falconer has *first and second parts that each include a gas conducting tube and an irrigating liquid conducting tube*. Instead, Falconer discloses only a single tube with a single fluid passageway. To the extent that the clamp 15 may be said to divide the tube 6 into two parts, one on each side of the clamp, each of these parts has only a single tube with a single fluid passageway. For at least the foregoing reasons, claim 3 is not anticipated by Falconer.

As set forth in claim 6, the control unit of the irrigation system may be set in at least *three different* positions. These positions include an inactive position, a cuff inflating position in which gas is pumped into the inflatable cuff and a

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liquid transferring position in which gas is pumped into the reservoir and irrigating liquid is transferred from the reservoir to the probe. This is not shown by Falconer.

Referring to the foregoing discussion of claim 3, Falconer discloses only a single tube 6 with a single fluid passageway connecting the reservoir to the probe. A clamp 15 on the tube 6 may be moved between a closed or clamped position and an open or unclamped position. With the clamp, i.e., "control unit", in the open or unclamped position, the tube is capable of accommodating the flow of gas or liquid therethrough, and with the clamp in the closed or clamped position, fluid flow through the tube is prevented. Hence, the "positions" for allowing gas or for allowing liquid flow are, in fact, the same. Therefore, the control unit of Falconer has only two different positions.

Furthermore, none of the control unit positions shown in Falconer can be called an "inactive" position; rather, the two positions in Falconer actively open and close to allow and prevent fluid flow through the tube, respectively. Thus, since Falconer lacks any disclosure of a control unit having three different positions including an *inactive* position as set forth in claim 6, claim 6 is not anticipated by Falconer.

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Claim 23 sets forth that the pump of the irrigation system is *powered by an external device*. An "external device", as those words are commonly used and understood, does not include a human. Instead, an external device is intended herein, and would be understood by persons of ordinary skill in the art, to include a power source that is controlled electrically, pneumatically, etc. (see page 12, line 29 to page 13, line 3). A pump powered by an external device is not shown by Falconer which discloses only a manually operable bulb 5 for pumping air into the reservoir 1. Therefore, claim 23 is not anticipated by Falconer.

Claim 24 provides that the control unit may be set in at least two *different positions* that include a *cuff inflating position* and a *liquid transferring position*. As already discussed in connection with claim 6, the control unit in Falconer has only two positions, one that allows fluid/gas flow and one that does not. Hence, the position that allows for cuff inflation and the position that allows for liquid transfer in Falconer is the same (see paragraph [0024]).

Further, claim 24 sets forth that *the pump is connected to or integral with the control unit*. As previously discussed in connection with claim 3, in Falconer the clamp is separated from the pump by the reservoir and is positioned on a tube that is completely

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separate from the tube that connects the pump to the reservoir. The pump in Falconer is neither connected to nor integral with the control unit.

For at least the foregoing reasons, claim 24 is not anticipated by Falconer.

Claim 25 sets forth that the control unit may be set in at least two different positions that include a cuff inflating position and a liquid transferring position. This is not shown by Falconer as already discussed in connection with claim 24. In addition, Falconer does not disclose that the control unit includes three flexible tubes connected to a pumping element at one end, the first tube being connected to a gas outlet, the second tube being connected to the reservoir and the third tube being connected to the inflatable cuff.

The Examiner acknowledged that Falconer does not disclose three flexible tubes as set forth in claim 25, therefore citing Evanoski for this teaching. Before addressing Evanoski, however, Applicants note that Falconer and the present application are commonly owned. Therefore, under 35 U.S.C. 103(c), upon provision of evidence establishing common ownership at the requisite time, the Falconer application is not prior art against the present application for the purposes of an obviousness rejection.

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Applicants hereby provide the following statement which, in accordance with the requirements of MPEP 706.02(1)(2), is sufficient to establish common ownership:

Statement Concerning Common Ownership

The present application (Serial No. 10/520,936) and the Falconer application (US 2003/0073974) were, at the time the present invention (Serial No. 10/520,936) was made, owned by, or subject to an obligation of assignment to, the same person or organization.

Falconer not being prior art under 35 U.S.C. 103(c), Applicants point out that Evanoski is wholly insufficient to teach or suggest the present invention as claimed. Withdrawal of the rejection and allowance of pending claim 25 is therefore requested.

Claim 13 has been amended to incorporate the subject matter of dependent claim 14, with the latter being canceled herein. Therefore, claim 13 is allowable in accordance with the Examiner's identification of allowable subject matter in claim 14.

New claim 29 represents the subject matter of claim 18 rewritten in independent form to include the subject matter of claim 13. Therefore, claim 29 is allowable in accordance with the Examiner's identification of allowable subject matter in claim 18.

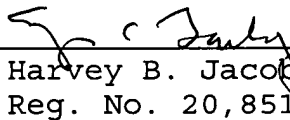
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Claims 30 and 31 correspond with claims 19 and 20, respectively, which were previously dependent on claim 18 and are now canceled in view of new claims 30 and 31.

With the foregoing amendments and remarks, the application is in condition for allowance. Should the Examiner have any questions or comments, the Examiner is cordially invited to telephone the undersigned attorney so that the present application can receive an early Notice of Allowance.

Respectfully submitted,

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